

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Lee Welch,)	CASE NO. 1:14CV2328
)	
Petitioner,)	JUDGE PATRICIA A. GAUGHAN
)	
Vs.)	
)	
Alan Lazaroff, Warden,)	<u>Memorandum of Opinion and Order</u>
)	
Respondent.)	

INTRODUCTION

This matter is before the Court upon Petitioner's Motion for Reconsideration Pursuant to Fed. R. Civ. P. 7(b)(1) (Doc. 14). Petitioner's motion is GRANTED. On April 4, 2016, this Court accepted the Report & Recommendation of Magistrate Judge Kenneth S. McHargh, which recommended dismissal of petitioner's Petition for Habeas Corpus. In doing so, the Court applied the standard for review of a report and recommendation when no objections have been timely filed because petitioner did not submit objections to the Report and Recommendation within the required 14-day time limit. Petitioner, however, declares under penalty of perjury that

he placed a motion for extension of time to file objections to the Report and Recommendation in the prison mailing system on February 23, 2016, within the 14-day time limit. Under the federal prison mailbox rule, prisoner's pleadings are considered filed when the prisoner provides the pleading to prison officials for filing. *Keeling v. Warden, Lebanon Corr. Inst.*, 673 F.3d 452, 456 (6th Cir. 2012) (citing *Cook v. Stegall*, 295 F.3d 517, 521 (6th Cir. 2002)).

Because petitioner's motion for extension was timely filed, the Court hereby vacates its Order of April 4, 2016, and will permit him to file an objection to the Report and Recommendation within 30 days of the date of this Order.

IT IS SO ORDERED.

/s/ Patricia A. Gaughan
PATRICIA A. GAUGHAN
United States District Judge

Dated: 4/21/16